REMARKS/ARGUMENTS

Claims 1-26 and 29-48 remain in this application. Claims 1, 41-43 and 47 have been amended herein. Claims 27 and 28 were previously canceled. Claims 13-26, 29-37 and 44-46 stand withdrawn.

1. Office Action is Incomplete

The Examiner has *not given any basis* in this office action for the rejection of Claim 48. Accordingly, the office action is *incomplete*. Applicants request that Examiner review Claim 48 in light of the arguments put forth herein below. In particular, the prior art does not fairly teach or suggest a furnace assembly, including:

a *top plate having an exit opening formed therein*; and ...

a handle disposed in the furnace passage and *extending through the exit opening*...;

a *flow shield* mounted on the handle ...;

a *cylindrical spacer mounted about the handle* ...; and

a *plurality of washers* mounted above the top plate and about the handle and *at least one washer is in contact with the top plate* and is covering a portion of the exit opening.

In addition to the lacking claim elements, the construction of "washer" by Examiner as being a part of item 3 and 23b is asserted to be improper (see discussion relative to claim 47). Thus, Claim 48 is believed allowable.

2. Drawings

Formal drawings (9 sheets) were included with the Letter to the Draftsperson and mailed on January 15, 2003. Examiner is respectfully requested to indicate the acceptability of the drawings in the next office communication.

3. Objection to Specification

The specification is objected to as failing to provide proper antecedent basis. Examiner indicates there is no mention of an "*exit opening*" nor of a top plate "extending across" in the specification.

Respectfully, the objection is traversed. Examiner is directed to Fig. 1 and Paras. **[0022]**, **[0024]**, and **[0035]** of 2003/0044743 wherein it states the "top plate 120 covers the outlet opening 114 and interfaces with the flange 116," the "process gas exits the furnace passage 111 through the opening 122," and the handle body 132 extends "through the opening 122." Accordingly, there is direct support for there being an exit opening in the top plate, i.e., an opening through which the process gas exits. Examiner is reminded that the Fed Circuit and its predecessor court has repeatedly held claimed subject matter "need not be described *in haec verba*" in the specification to satisfy the written description requirement. In re Smith, 481 F.2d 910, 91; 178 USPQ 620 (CCPA 1973). All that is required is that the claimed invention is described "so that one skilled in the art can recognize what is claimed." The claim requires a top plate with an *exit opening* defined therein, and wherein the handle extends through the exit opening. It is readily apparent from the specification that the "exit opening" is the aperture formed in the top plate through which the

handle passes as shown and described in the drawings and specification. Accordingly, the objection is flawed and should be withdrawn.

It is also believed that the term "extending across" is equally clear. However, as an accommodation to dispose of the issue, the term "*extending across*" has been changed to "*covers*" in Claim 41 to overcome the Examiner's concerns. Support may be found in Para. **[0022]** and in Fig. 1. Accordingly, this objection is also overcome.

4. Rejections of Claim 41 under 35 U.S.C. §112

The Examiner has rejected Claim 41 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description, and also as being indefinite.

Claim 41 has been amended to change the term "extending across" to "covers." Accordingly, one skilled in the art would understand the bounds of the claim when read in light of the specification. Thus, the rejection is overcome. Support for the amendment may be found in Para. **[0022]** and in Fig. 1.

5. Rejections under §102(b) and §102(e) based on Koaizawa

The Examiner has now finally rejected Claims 1-3, 5-7, 9-12, 38-43 and 47 under 35 U.S.C. 102(b) as being anticipated by JP 2000-44269. The Examiner has further rejected Claims 1-3, 5-7, 9-12, 38-43 and 47 under 35 U.S.C. 102(e) as being anticipated by Koaizawa 6,543,257.

As amended, the claim rejections are overcome. First, it is noted that Examiner has been in possession of the relied upon reference (Koaizawa) since 2002. If this reference was so relevant, then why did the Examiner not rely upon it earlier? Applicants assert the reason why is to meet the claim limitations herein, Examiner must *contort and misconstrue* the teachings of the reference.

Relating to the rejection of Claim 1, Examiner has characterized Koaizawa as having a top plate (2b). It is asserted that this characterization is *unreasonable* and not in accordance with common term usage. In particular, a "plate" is defined as a flat, smooth, relatively thin body of uniform thickness (Webster's II New World Dictionary). What Examiner has referred to as a "plate" is in fact a flange which is a portion integral with the tubular muffle in Koaizawa. A flange *integral* with a tubular body is not a "plate" in accordance with common usage of the term (see discussion of the Nerwin and Howard cases below).

Accordingly, claim 1 clearly distinguishes the structure of Koaizawa. In particular, Koaizawa does not fairly teach or suggest an furnace assembly including: a top plate mounted and resting on a terminal end of the muffle tube ... and an exit opening defined in the top plate, said top plate including a first surface in contact with the terminal end and a second surface opposite the first surface; and ...

a flow shield ...; and

a washer mounted about the handle, contacting the second surface of the top plate and covering a portion of the exit opening. Claims 2-3, 5-7, 9-12, and 38-40 are allowable for at least these reasons.

Likewise, Claim 41, as amended, clearly distinguishes Koaizawa. In particular, Koaizawa does not fairly teach or suggest a furnace assembly, including a top plate mounted on a top of the muffle tube and covering the second end and the

outlet opening and including an exit opening therein, said top plate including a first surface in contact with the flange and a second surface opposed thereto, ...

a flow shield ..., and

a washer mounted about the handle and in contact with the second surface of the top plate and covering a portion of the exit opening. Thus, the rejection of Claim 41 should be withdrawn.

Similarly, Claim 42, as amended, also clearly distinguishes Koaizawa. In particular, Koaizawa does not fairly teach or suggest a furnace assembly including:

a muffle tube including a tubular body and a passage;

a top plate having a first surface mounted in contact with an end of the muffle tube and a second surface opposite the first surface, the top plate extending radially inward from the tubular body and including a central opening therein; ...and

a flow shield positioned in the passage between the coupling portion and the top plate, wherein the flow shield is configured such that a radial peripheral edge of the flow shield and a cylindrical inside surface of the muffle tube form a marginal gap having a width of between 2.5 and 25 mm to enable restriction of the gas; and

a washer positioned over the central opening and in contact with the top plate, ...

Thus, the rejection of Claim 42 should be withdrawn.

Similarly, Claim 43 as amended distinguishes Koaizawa. In particular, Koaizawa does not fairly teach or suggest an assembly, including: a top plate contacting the tubular muffle and covering the outlet opening and having a first surface, a second surface opposite the first surface, ... and at least one solid flow restrictor positioned over the passage and in contact with the top plate ... Thus, the rejection of Claim 43 should also be withdrawn.

Claim 47, as amended, also clearly distinguishes Koaizawa. In particular, Koaizawa does not fairly teach or suggest a furnace assembly, including:

... a top plate mounted on a terminal end of the muffle tube at the second end, said top plate including a first surface, a second surface opposed to the first surface, and an exit opening defined in the top plate...

a flow shield positioned between the first and second ends and extending across the furnace passage ...; and

a plurality of washers mounted above the top plate and about the handle and covering a portion of the exit opening wherein at least one of the washers is in contact with the top plate.

Accordingly, the rejection of Claim 47 should be withdrawn.

Regarding Examiner's characterization of "*washer*" used in the rejection, it is asserted that such construction is *unreasonable* and not in accord with common term usage. According to Webster's II New World Dictionary, a "washer" is defined as "a small perforated disk placed beneath a nut or at ...a joint to relieve friction, prevent leakage, or distribute pressure." The structure that Examiner points to as defining a "washer" is not a disc at all. Accordingly, Koaizawa does not fairly teach or suggest a plurality of washers mounted above the top plate. Moreover, the holding in Nerwin v. Erlichman, 168 USPQ 177, 179 is inapplicable to this case, and it does not sanction changing the common meaning of a term. In Nerwin, the issue was whether a single integral structure (the Erlichman structure) can meet the count in an interference, where such count has two separately claimed elements. The court indicated, of course, that it can. However, the present case is unlike Nerwin. In the present case, the claimed structure is a sub-part of a larger integral structure. In other words, Examiner

must improperly discard certain parts of the integral structure to find the Applicants claimed structure. This uses improper hindsight reconstruction and is not in accordance with the holding in Nerwin.

Further, the passage relied upon by Examiner actually comes from Howard et al. v. Detroit Stove Works. 150 U.S. 164, 65 O.G. 1765 (U.S. 1893). In the Howard et al., the issue was whether a grate cast integrally as one piece was anticipated by a prior art grate formed of a first and second piece. This is also different than the present case because the claimed structure is a sub-part of a larger structure. In other words, in the present case, the Examiner must discard part of the prior art structure to find the Applicants claimed structure. Accordingly, Howard et al. is also not applicable to the facts herein. Applicants have claimed a "washer" and clearly no such structure is taught or suggested in Koaizawa.

6. Rejection under §103 based on Koaizawa

The Examiner has rejected Claims 4 and 8 under 35 U.S.C. 103(a) as being unpatentable over JP 2000-44269 or Koaizawa 6543257. Because cClaim 1, as amended, is believed allowable, Claims 4 and 8 are also believed allowable.

7. Conclusion

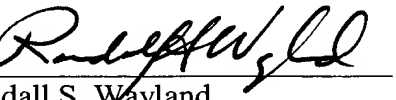
Based upon the above amendments, remarks, and papers of records, Applicants believe the pending claims of the above-captioned application are in allowable form and patentable over the prior art of record. Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Applicants believe that no extension of time is necessary to make this Reply timely. Should Applicants be in error, Applicants respectfully request that the Office grant such time extension pursuant to 37 C.F.R. § 1.136(a) as necessary to make this Reply timely, and hereby authorize the Office to charge any necessary fee or surcharge with respect to said time extension to the deposit account of the undersigned firm of attorneys, Deposit Account 03-3325.

Please direct any questions or comments to Randall S. Wayland at 607-974-0463.

Respectfully submitted,

Date: 8-12-04



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